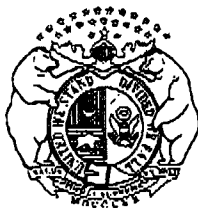


Before the
Administrative Hearing Commission
State of Missouri



PHILLIP L. JOYCE,

Petitioner,

vs.

DIRECTOR OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL
REGISTRATION,

Respondent.

No. 07-1364 DI

070815339C

ORDER

We deny the Director of Insurance, Financial Institutions and Professional Registration's ("the Director") motion for leave to file an amended answer.

Procedure

On August 6, 2007, Philip L. Joyce appealed the Director's decision denying renewal of his bail bond agent license. The Director filed an answer on September 13, 2007. This case is scheduled for hearing on December 20, 2007. On December 14, 2007, the Director filed a motion for leave to file an amended answer.

Analysis

Our Regulation 1 CSR 15-3.380 provides in part:

(5) The respondent shall file an answer to an amended complaint within ten (10) days after service of the amended complaint or within the time remaining for filing answer [sic] to the original

complaint, whichever is longer, unless the commission orders otherwise.

(6) Otherwise, the respondent shall amend the answer **only with the commission's leave.**


(Emphasis added). When an applicant is the petitioner, the licensing agency's answer provides due process notice to the applicant of the agency's grounds for refusal.¹ When a licensing agency files a complaint seeking to discipline a licensee, the agency's complaint similarly gives due process notice to the licensee of the agency's alleged grounds for discipline.² Because adequate notice must be given in order to prepare for hearing, we do not allow a petitioner to amend a complaint less than twenty days before the hearing unless the respondent consents.³ Similarly, an applicant who is the petitioner should be afforded adequate notice and preparation time when the licensing agency seeks to amend the answer.

The hearing in this case is scheduled for December 20, 2007, and the Director seeks to amend the answer because "Respondent has determined that there are additional grounds for cause to deny Petitioner's renewal application that were not pleaded in the Answer filed on September 13, 2007." The Director does not indicate that Joyce has consented to amendment of the answer.

In the absence of consent on Joyce's part, we presume that amendment of the answer to add further grounds for denial, six days before the scheduled hearing, does not allow sufficient notice and time to prepare for the hearing.

Therefore, we deny the Director's motion for leave to file an amended answer.

SO ORDERED on December 18, 2007.



JUNE STRIEGEL DOUGHTY
Commissioner

¹ *Ballew v. Ainsworth*, 670 S.W.2d 94, 103 (Mo. App., E.D. 1984).

² *Duncan v. Missouri Bd. for Arch'ts, Prof'l Eng'rs & Land Surv'rs*, 744 S.W.2d 524, 538-39 (Mo. App., E.D. 1988).

³ Regulation 1 CSR 15-3.350(4).